

Law Office of Peter Gorski, P.L.C.
Practice Focused on Serious Injury and Wrongful Death

General Correspondence to:
908 W. Chandler Blvd., Bldg. "D"
Chandler, Arizona 85225-2551
Telephone (480) 730-1777
Facsimile (480) 305-5974

Litigation Correspondence to:
40 N. Central Ave., Ste. #1400
Phoenix, Arizona 85004-4436
Peter M. Gorski, Esq.
E-mail: pgorski@petergorskilaw.com

May 1, 2012

VIA FIRST CLASS USPS & CERTIFIED MAIL
7011 0470 0001 2757 2688

Freedom of Information Act Appeals Officer
Department of the interior
Office of the Solicitor
1849 C. Street, NW, MS 6556
Washington, DC 20240

RE: FREEDOM OF INFORMATION ACT APPEAL
FOIA # 2012-00693
Carol & Samuel Hooke for their deceased son, Justin Hooke

Dear Madam or Sir:

Pursuant to Matthew Pryor's letter dated April 11, 2012, please find enclosed the following information for your convenience in review of my appeal request:

- 1) Original FOIA letter/fax dated October 6, 2011 addressed to U.S. Department of the Interior Bureau of Indian Affairs;
- 2) Fax and fax confirmation dated February 9, 2012 addressed to U.S. Department of Interior Bureau of Indian Affairs;
- 3) Letter from U.S. Department of Interior Bureau of Indian Affairs dated March 1, 2012 requesting a signed Consent to Release;
- 4) Fax/Fax confirmation/Letter to U.S. Department of Interior Bureau of Indian Affairs dated March 2, 2012 with signed Consent to Release; and
- 5) Partial denial letter from BIA dated April 11, 2012.

I would ask that the Department of the Interior, Office of the Solicitor review my appeal request. I hereby reiterate my request for the documentation sought in the original Freedom of Information Act Request dated October 6, 2011. Mr. Pryor provided a partial denial in this matter pursuant to exemptions (b)(6) and 7(C) due to "privacy concerns" on April 11, 2012.

I am aware that Agent S. Garnenez from the Bureau of Indian Affairs received a copy of a surveillance report, supplemental reports and two DVDs from the acting supervisor of inspectors at the Apache Gold Casino-Gaming Office in San Carlos, Arizona on May 5, 2011. I am also aware Agent Garnenez received a copy of the San Carlos Apache Tribal Police Department Report #2011-06285 which included supplemental reports, Apache Gold Casino reports/correspondence and a crash diagram. Each of these documents were noted to have been attached to Agent Garnenez' file.

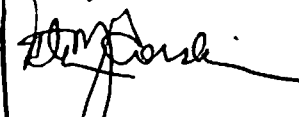
Each one of the documents and or surveillance footage noted were specifically noted in our FOIA request in October 2011. The records sought are records of the BIA and were under the agency's control at the time of the request. Further, it seems clear that it was BIA's intent to keep the documentation obtained through its investigation and relied on such documentation/footage to come to the disposition of its case wherein the case was ultimately closed and unfounded for any federal offense.

If the Department of the Interior believes that any portion of the information contained in the above documentation should be redacted or is privileged, the FOIA still requires that any reasonable segregable portions of the record must be released.

Finally, the limited documentation that was received in response to our FOIA request was heavily redacted including names of potential witnesses and officers that were present and/or investigated the incident. The exemption referred to is designed to limit disclosure of information including names, addresses etc., if it could be reasonably expected to constitute an unwarranted invasion of personal privacy. In this particular matter, we are dealing with police reports or investigative reports where the author has prepared the document(s) in the scope of their employment and any information regarding the other officer(s) who were on duty or were present and/or investigated the matter are not and should not be afforded the same privacy expectations as private individuals. Also, witnesses who are interviewed by the police department or other investigative organizations know or should know that their information (or at least their names) will become public information at some point in the investigation.

Therefore, I would ask that you reconsider the partial denial that was received on April 11, 2012. I look forward to receiving your response shortly.

Sincerely,



Peter M. Gorski, Esq.

PMG/kd

Enclosure(s): As stated

cc: Client

Client File

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COPY

Law Office of
Peter M. Gorski
908 West Chandler Boulevard
Building D
Chandler, Arizona 85225

Peter M. Gorski, Esq.
Email: pgorski@petergorskilaw.com

Telephone: (480) 730-1777
Facsimile: (480) 305-5974

October 6, 2011

**VIA U.S.P.S. FIRST CLASS MAIL and
FACSIMILE #928-475-2524**

U.S. Dep't of the Interior Bureau of Indian Affairs
Records Division
P.O. Box 849
San Carlos, Arizona 85550
(928) 475-2427 - Phone

Re:	Our Clients:	Carol and Samuel Hooke
	Decedent:	Justin Lawrence Hooke (son)
	Date of Loss:	April 24, 2011

Dear Sir or Madam:

This office represents Carol and Samuel Hooke in connection with any and all civil claims arising out of their losses sustained in the above-referenced incident.

Pursuant to the Federal Freedom of Information Act, as Mr. and Mrs. Hooke's attorney and statutory representative, I am requesting a true and correct copy of the following:

1. Any and all surveillance videos indoor and outside of the premises from April 23, 2011 through April 24, 2011 from Apache Gold Casino
2. Any and all 911 audio files in the possession of BIA regardless of source
3. CD containing the raw data from any incident reconstruction completed in this matter;
4. Any notes taken when completing any investigation;
5. List of all evidence; known by the BIA or in possession of the BIA
6. Any and all forensic reports;
7. Complete set of photographs taken concerning this incident;
8. Any and all police officer interviews including audio, video and/or written;
9. Any and all witness statements, audio and/or video recorded and/or written;
and,

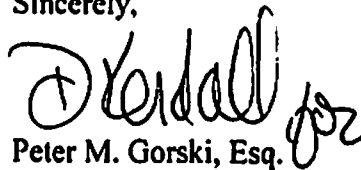
BIA, Office of Justice Services
Attn: Records Division
October 6, 2011
Page 2

10. Any and all supplemental reports.

I respectfully request that you expedite your compliance with our above requests, and any related requested materials, so that I may evaluate any and all civil remedies my client's are entitled to.

Please contact me if you have any questions regarding this request. Contact my staff for any copying charges and when the report and related materials are ready. Thank you in advance for your anticipated cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Gorski, Esq.", with a stylized flourish at the end.

Peter M. Gorski, Esq.

PMG/ts

Enclosure(s): none

Cc: Mr. and Mrs. Hooke

***** -Comm. Journal- ***** Date OCT-06-2011 ***** Time 16:16 *****

Mode = Memory Transmission

Start=OCT-06 16:15

End=OCT-06 16:16

File No.=056

STN No.	Comm.	Key Name	Station Name/Email Address/Telephone No.	Pages	Duration
001	OK	A	19284752524	002/002	00:00:28

***** DP-C262 ***** - - ***** - 3169- *****

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October 6, 2011

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U.S. Dep't of the Interior Bureau of Indian Affairs
 Records Division
 P.O. Box 849
 San Carlos, Arizona 85550
 (928) 475-2427 - Phone

Re: Our Clients: Carol and Samuel Hooke
 Decedent: Justin Lawrence Hooke (son)
 Date of Loss: April 24, 2011

Dear Sir or Madam:

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Pursuant to the Federal Freedom of Information Act, as Mr. and Mrs. Hooke's attorney and statutory representative, I am requesting a true and correct copy of the following:

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40 N. Central Ave., Ste. #1400
Phoenix, AZ 85004-4436
Peter M. Gorski, Esq.
E-mail: pgorski@petergorskilaw.com

FACSIMILE TRANSMISSION COVER SHEET

From: *Peter M. Gorski, Esq.*
To: US Dep't of the Interior Bureau of
Indian Affairs; Gracie/Records Division
Phone: 928-475-2427
Fax: 928-475-2524

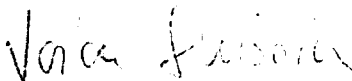
Date: 2.9.2012
Client: Carol & Samuel Hooke for their
deceased son Justin Lawrence Hooke
Pages: (4 including cover)

MESSAGE

Good Day.

Per our conversation today, enclosed please find a copy of our letter faxed and mailed October 6, 2011. This is the second request for documents regarding the above mentioned case. Please respond to our request as soon as possible. Thank you for your assistance and cooperation.

Sincerely,
Voica Ghisoiu



For the Firm

THE ORIGINAL DOCUMENT(S) BEING TELECOPIED:

☒ Will not be mailed* ☐ Will be sent by regular mail ☐ Will be sent by:
(*Unless Requested) _____

If there are any problems with this transmission, please call the sender at the above telephone number for retransmission.

CONFIDENTIALITY NOTICE: The information contained in this facsimile transmission is confidential and intended for the addressee only. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that any review, dissemination, distribution or copy of the telecopy is strictly prohibited. If you receive this fax in error, please call us collect immediately and return the original message to us at the address above via United States Postal Service. Thank you.

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October 6, 2011

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Re:	Our Clients:	Carol and Samuel Hooke
	Decedent:	Justin Lawrence Hooke (son)
	Date of Loss:	April 24, 2011

Dear Sir or Madam:

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Pursuant to the Federal Freedom of Information Act, as Mr. and Mrs. Hooke's attorney and statutory representative, I am requesting a true and correct copy of the following:

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**BIA, Office of Justice Services
Attn: Records Division
October 6, 2011
Page 2**

10. Any and all supplemental reports.

I respectfully request that you expedite your compliance with our above requests, and any related requested materials, so that I may evaluate any and all civil remedies my client's are entitled to.

Please contact me if you have any questions regarding this request. Contact my staff for any copying charges and when the report and related materials are ready. Thank you in advance for your anticipated cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Gorski" with a stylized flourish at the end.

Peter M. Gorski, Esq.

PMG/ts

Enclosure(s): none

Cc: Mr. and Mrs. Hooke

Mode = Memory Transmission

Start=OCT-06 16:15

End=OCT-06 16:16

File No.=056

STN No.	Comm.	Key Name	Station Name/Email Address/Telephone No.	Pages	Duration
001	OK	a	19284752524	002/002	00:00:28

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Records Division
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Re: Our Clients: Carol and Samuel Hooke
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Date of Loss: April 24, 2011

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***** -Comm. Journal- ***** Date FEB-09-2012 ***** Time 10:32 *****

Mode = Memory Transmission

Start=FEB-09 10:31

End=FEB-09 10:32

File No.=376

STN No.	Comm.	Key Name	Station Name/Email Address/Telephone No.	Pages	Duration
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***** DP-C262 ***** -

- ***** -

3169- *****

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Phone: 928-475-2427
Fax: 928-475-2524

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Client: Carol & Samuel Hooke for their
deceased son Justin Lawrence Hooke
Pages: (4 including cover)

MESSAGE

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Sincerely,
Voica Ghisoiu



For the Firm

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COPY



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
District III - Office of Justice Services
2600 N. Central Avenue, 4th Floor Mailroom
Phoenix, Arizona 85004



IN REPLY REFER TO:
Office of Justice Services

(602) 379-6958

March 1, 2012

Peter M. Gorski
908 West Chandler Blvd
Building D
Chandler, AZ 85225

Dear Mr. Gorski:

This acknowledges receipt of your Freedom of Information Act (FOIA) request dated October 6, 2011, and received by the Bureau of Indian Affairs, Office of Justice Services, District III, on March 1, 2012. Your request was assigned FOIA Control# 2012-00693 for processing. Please cite this number in all future correspondence with the BIA, OJS, regarding your request.

Your FOIA request was made on behalf of your clients; Carol and Samuel Hooke. Before we can proceed with your request, your clients must complete the enclosed "Consent to Release Information to Third Party" form. The completed form must be returned to this office by either mail or fax no later than March 29, 2012. If, by this date you do not comply with this request, your FOIA request will be closed and no further action will be taken.

If you have any questions pertaining to this matter, please contact Cynthia Descheeny, FOIA Coordinator at telephone number (602) 379-6958, ext. 1819, and fax number (602) 379-6462.

Sincerely,

For 

Matthew Pryor
Special Agent In Charge
Office of Justice Services, District III

Enclosure

Cc: Laura Cloud, BIA FOIA Officer
Chief of Police, Police Department

CONSENT TO RELEASE INFORMATION TO THIRD PARTY

The Privacy Act generally requires the release of records contained in a system of records about an individual to that individual when he or she requests them. See 5 U.S.C. § 552 a(d)(1). Correspondingly, the Privacy Act prohibits disclosure of protected records to third parties without the consent of the individual to whom the records pertain, 5 U.S.C § 552 a(b).

Name of Person subject of records: _____

Mailing Address: _____

Contact Number: _____

Pursuant to 5 U.S.C. Section 552 a(b), I hereby authorize the BIA, OJS to release any information relating to my involvement in the (describe incident) _____

Which, occurred on _____, 20 _____,

Please release to: Name: _____

Address: _____

Certification of Identity

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. §552 a(i)(3) by a fine of not more than \$5,000.

Signature: _____ Date: _____

This release shall be in effect for 180 days from the date of my signature.

Law Office of
Peter M. Gorski
908 West Chandler Boulevard
Building D
Chandler, Arizona 85225

Peter M. Gorski, Esq.
Email: pgorski@petergorskilaw.com

Telephone: (480) 730-1777
Facsimile: (480) 305-5974

October 6, 2011

VIA U.S.P.S. FIRST CLASS MAIL and
FACSIMILE #928-475-2524

U.S. Dep't of the Interior Bureau of Indian Affairs
Records Division
P.O. Box 849
San Carlos, Arizona 85550
(928) 475-2427 - Phone

RECEIVED
2012 MAR -1 A 9:00
BIA PHOENIX AREA
OFFICE OF JUSTICE SERV

Re:	Our Clients:	Carol and Samuel Hooke
	Decedent:	Justin Lawrence Hooke (son)
	Date of Loss:	April 24, 2011

Dear Sir or Madam:

This office represents Carol and Samuel Hooke in connection with any and all civil claims arising out of their losses sustained in the above-referenced incident.

Pursuant to the Federal Freedom of Information Act, as Mr. and Mrs. Hooke's attorney and statutory representative, I am requesting a true and correct copy of the following:

1. Any and all surveillance videos indoor and outside of the premises from April 23, 2011 through April 24, 2011 from Apache Gold Casino
2. Any and all 911 audio files in the possession of BIA regardless of source
3. CD containing the raw data from any incident reconstruction completed in this matter;
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9. Any and all witness statements, audio and/or video recorded and/or written; and,

BIA, Office of Justice Services
Attn: Records Division
October 6, 2011
Page 2

10. Any and all supplemental reports.

I respectfully request that you expedite your compliance with our above requests, and any related requested materials, so that I may evaluate any and all civil remedies my client's are entitled to.

Please contact me if you have any questions regarding this request. Contact my staff for any copying charges and when the report and related materials are ready. Thank you in advance for your anticipated cooperation.

Sincerely,



Peter M. Gorski, Esq.

PMG/ts

Enclosure(s): none

Cc: Mr. and Mrs. Hooke

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COPY

Law Office of Peter Gorski, PLC

Practice Focused on Serious Injury and Wrongful Death

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Litigation Correspondence to:

40 N. Central Ave., Ste. #1400
Phoenix, AZ 85004-4436
Peter M. Gorski, Esq.
E-mail: pgorski@petergorskilaw.com

March 2, 2012

VIA U.S.P.S. FIRST CLASS MAIL and
FACSIMILE #602-379-6462

U.S. Dep't of the Interior Bureau of Indian Affairs
District III-Office of Justice Services
2600 N. Central Ave., 4th Floor Mailroom
Phoenix, AZ 85004
Ph: 602-379-6958x1819

Re:	Our Clients:	Carol and Samuel Hooke
	Decedent:	Justin Lawrence Hooke (son)
	Date of Loss:	April 24, 2011
	FOIA Control #:	2012-00693

Dear Sir or Madam:

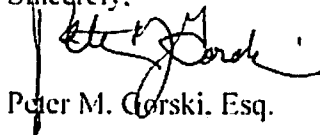
This office represents Carol and Samuel Hooke in connection with any and all civil claims arising out of their losses sustained in the above-referenced incident.

This letter is a response to your correspondence dated March 1, 2012. Enclosed, for your file and review, please find the Consent to Release Information to Third Party, signed by attorney Peter M. Gorski, on behalf of Carol and Samuel Hooke as their representative in connection to the claim arising from the loss of their deceased son, Justin Lawrence Hooke. I have attached a copy of the Power of Attorney signed by both Carol and Samuel Hooke on August 31, 2011.

I respectfully request that you expedite your compliance with our request, and any related requested materials, so that I may evaluate any and all civil remedies my client's are entitled to.

Please contact me if you have any questions regarding the content of this letter. Contact my staff for any copying charges and when the report and related materials are ready. Thank you in advance for your anticipated cooperation.

Sincerely,



Peter M. Gorski, Esq.

PMG/vg;

Enclosure(s): Consent and POA: cc: Client File

CONSENT TO RELEASE INFORMATION TO THIRD PARTY

The Privacy Act generally requires the release of records contained in a system of records about an individual to that individual when he or she requests them. See 5 U.S.C. § 552 a(d)(1). Correspondingly, the Privacy Act prohibits disclosure of protected records to third parties without the consent of the individual to whom the records pertain. 5 U.S.C. § 552 a(b).

Name of Person subject of records: Justin Lawrence Hooke (deceased)

Mailing Address: c/o Law Office of Peter Gorski
908 W. Chandler Blvd. Ste. D, Chandler, AZ 85225

Contact Number: 480-730-1777

Pursuant to 5 U.S.C. Section 552 a(b), I hereby authorize the BIA, OJS to release any information relating to my involvement in the (describe incident):

All information, regardless of source or format, including photographs, audio and video relating to the incidents surrounding the death of a tribal member, Justin L. Hooke, on April 24, 2011. This request includes activities occurring the evening of April 23, 2011, as well as the date of April 24, 2011, at Apache Gold Casino, Apache Gold Casino Convenience Store (Liquor Store), and elsewhere on San Carlos tribe's lands, and should include all Casino employees and patrons, other San Carlos tribal members and officials, as well as persons not tribal members, interviewed or otherwise involved in any and all investigations related to the death of Justin L. Hooke.

Which, occurred on: April 24, 2011

Please release to: Name: Peter M. Gorski, Esq.
Address: Law Office of Peter Gorski
908 W. Chandler Blvd. Ste. D, Chandler, AZ 85225

Certification of Identity

I declare under penalty of perjury under the laws of United States of America the foregoing is true and correct and that I am the person named above and I understand that any falsification of this statement is punishable under the provision of 18 U.S.C. Section 1001 by a fine not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. §552 a(i)(3) by a fine of no more than \$5,000.

Signature: Peter M. Gorski as attorney in fact of Carol and Samuel Hooke, parents and beneficiaries of deceased Justin L. Hooke

Date: 3-2-2012

This release shall be in effect for 180 days from the date of my signature.

When recorded return to:
Law Office of Peter Gorski, P.L.C.
908 W. Chandler Blvd., Bldg. D
Chandler, Arizona 85225-2551
480-730-1777
Facsimile #480-305-5974

DURABLE SPECIAL POWER OF ATTORNEY

Effective Date: August 31, 2011
Expiration Date: August 31, 2011

County of Maricopa
State of Arizona

PRINCIPALS:

Carol Lee Hooke
Samuel H. Hooke

ATTORNEY-IN-FACT:

Peter M. Gorski

Principal constitutes and appoints Attorney-in-Fact to act as its true and lawful attorney for and in its name, place, and stead to perform the following acts and things:

1. Negotiate, compromise and settle personal injury and other damage claims, including, but not limited to, medical payment benefits claim, arising from a wrongful death claim occurring on or about April 24, 2011, in San Carlos Apache Reservation, Arizona;
2. Sign release papers regarding these claims;
3. Sign and negotiate insurance company drafts or checks received in settlement of claims;
4. Disburse funds from such settlement drafts or checks, pursuant to the Contingency Fee Contract dated this 30 day of August, 2011.

SPECIAL POWER OF ATTORNEY

1. Principal gives and grants to Attorney-in-Fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as it might or could do if personally present. Principal ratifies and confirms all that Attorney-in-Fact shall lawfully do or cause to be done by virtue of this Special Power of Attorney.

2. This Power of Attorney shall not be affected by disability of the Principal.

3. This General Power of Attorney may be revoked by the Principal giving actual written notice to anyone dealing with the Attorney-in-Fact or by recording a Revocation of Power

of Attorney with the County Recorder of Maricopa County, Arizona. If this General Power of Attorney is not revoked within 6 months from its effective date by recording a Revocation, it shall be considered to be renewed and effective for additional 6 months periods until either revoked by recording a Revocation of Power of Attorney or expired pursuant to the expiration date. The failure of the Principal to record this Revocation shall be construed as a renewal of the Power of Attorney.

WARNING TO PERSONS EXECUTING THIS SPECIAL POWER OF ATTORNEY

This is an important legal document. It creates a durable power of attorney. Before executing this document, you should know these important facts:

1. This document may provide the person you designate as your attorney-in-fact with broad powers to dispose, sell, convey, and encumber your real and personal property.
2. These powers will exist for an indefinite period of time unless you limit their duration in this document. These powers will continue to exist notwithstanding your subsequent disability or incapacity.
3. You have the right to revoke or terminate this durable power of attorney at any time by (a) recording a revocation in the public office designated for that purpose on this Special Power of Attorney and (b) directly notifying your attorney-in-fact and anyone who may be dealing with your attorney-in-fact with respect to your property or other matters.

Witness

Carol Lee Hooke
Signature of Principal/Carol Lee Hooke

Witness

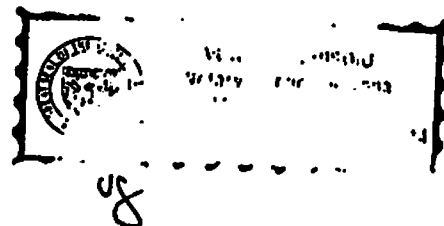
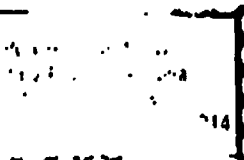
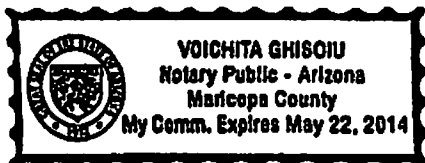
Samuel H. Hooke
Signature of Principal/Samuel H. Hooke

STATE OF ARIZONA)
)SS
County of Maricopa)

SUBSCRIBED and sworn to before me, a Notary Public, by Carol Lee Hooke and Samuel H. Hooke, this 31 day of August 31, 2011.

Voichita Ghisoiu
Notary Public

My Commission expires: _____



***** -Comm. Journal- ***** Date MAR-02-2012 ***** Time 16:41 *****

Mode = Memory Transmission

Start=MAR-02 16:39

End=MAR-02 16:41

File No.=219

STN No.	Comm.	Key Name	Station Name/Email Address/Telephone No.	Pages	Duration
001	OK	a	6023796462	004/004	00:01:36

***** DP-C262 ***** -

- ***** -

3169- *****

Law Office of Peter Gorski, PLC

Practice Focused on Serious Injury and Wrongful Death

General Correspondence to:

908 W. Chandler Blvd., Bldg. "D"

Chandler, AZ 85225-2551

Phone: 480-730-1777

Facsimile #480-305-5974

Litigation Correspondence to:

40 N. Central Ave., Ste. #1400

Phoenix, AZ 85004-4436

*Peter M. Gorski, Esq.*E-mail: pgorski@petergorskilaw.com

March 2, 2012

**VIA U.S.P.S. FIRST CLASS MAIL and
FACSIMILE #602-379-6462**

U.S. Dep't of the Interior Bureau of Indian Affairs

District III-Office of Justice Services

2600 N. Central Ave., 4th Floor Mailroom

Phoenix, AZ 85004

Ph: 602-379-6958x1819

Re: Our Clients: Carol and Samuel Hooke
 Decedent: Justin Lawrence Hooke (son)
 Date of Loss: April 24, 2011
 FOIA Control #: 2012-00693

Dear Sir or Madam:

This office represents Carol and Samuel Hooke in connection with any and all civil claims arising out of their losses sustained in the above-referenced incident.

This letter is a response to your correspondence dated March 1, 2012. Enclosed, for your file and review, please find the Consent to Release Information to Third Party, signed by attorney Peter M. Gorski, on behalf of Carol and Samuel Hooke as their representative in connection to the claim arising from the loss of their deceased son, Justin Lawrence Hooke. I have attached a copy of the Power of Attorney signed by both Carol and Samuel Hooke on August 31, 2011.

I respectfully request that you expedite your compliance with our request, and any related requested materials, so that I may evaluate any and all civil remedies my client's are entitled to.

Please contact me if you have any questions regarding the content of this letter. Contact my staff for any copying charges and when the report and related materials are ready. Thank you in advance for your anticipated cooperation.

Sincerely,


 Peter M. Gorski, Esq.

PMG/vg;

Enclosure(s): Consent and POA; cc: Client File

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RECEIVED
APR 11 2012
COPY



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
District III - Office of Justice Services
2600 N. Central Avenue, 4th Floor Mailroom
Phoenix, Arizona 85004



IN REPLY REFER TO:
Office of Justice Services

(602) 379-6958

April 11, 2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Peter M. Gorski
908 West Chandler Boulevard
Building D
Chandler, AZ 85225

Re: FOIA# 2012-00693

Dear Mr. Gorski:

On October 6, 2011, you submitted a Freedom of Information Act (FOIA) request with the BIA, Office of Justice Services, stating:

"This office represents Carol and Samuel Hooke in connection with any and all civil claims arising out of their losses sustained in the above-referenced incident.

Pursuant to the Federal Freedom of Information Act, as Mr. and Mrs. Hooke's attorney and statutory representative, I am requesting a true and correct copy of the following:

1. Any and all surveillance videos indoor and outside of the premises from April 23, 2011 through April 24, 2011 from Apache Gold Casino.
2. Any and all 911 audio files in the possession of BIA regardless of source.
3. CD containing the raw data from any incident reconstruction completed in this matter;
4. Any notes taken when completing any investigation;
5. List of all evidence; known by the BIA or in possession of the BIA
6. Any and all forensic reports;
7. Complete set of photographs taken concerning this incident;
8. Any and all police officer interviews including audio, video and/or written;
9. Any and all witness statements, audio and/or video recorded and/or written; and,
10. Any and all supplemental reports.

I respectfully request that you expedite your compliance with our above requests, and any related requested materials, so that I may evaluate any and all civil remedies my client's are entitled to.

Please contact me if you have any questions regarding this request. Contact my staff for any copying charges and when the report and related materials are ready. Thank you in advance for your anticipated cooperation.

We have classified your request as an "other-use" request, meaning that you are entitled to up to 2 hours of search time and 100 pages of photocopies before being charged for the processing of your request. Additionally, the Department of Interior does not bill requesters for FOIA fees incurred in processing "other-use" requests when their fees do not exceed \$50.00.

We have completed our search and review and have identified 1 document (totaling 26 pages) which is responsive to your request. The fee for providing these documents is less than \$50.00 and is not being charged in accordance with 43 CFR 2.16(b)(2) and 2.18(a).

Portions of these documents have been withheld, pursuant to Exemption 6 of the FOIA (5 USC § 552 (b)(6)) & Exemption 7(C) of the Freedom of Information Act, See (5 USC § 552(b)(7)(C)). The following information has been redacted:

Names of Third Parties
Personal Identifying Information

Exemption 6 of the FOIA requires an agency to withhold information regarding individuals contained in personnel, and medical and similar files when the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, (5 USC § 552(b)(6)). A privacy interest exists if disclosure of the information to the public would violate the privacy of the subject individual and/or could cause injury or embarrassment to that individual.

In determining whether to withhold Privacy Act covered information, the BIA-OJS performs a "balancing test". This means that we must weigh the individuals' right to privacy against the public's right to disclosure:

1) First, the agency determines whether the individual has discernable privacy interest in the information that has been requested.

2) Next, the agency assesses whether release of this information would serve "the public interest generally" (i.e., whether it would "shed light on the performance of the agency's statutory duties").

3) Finally, the agency assesses whether the public interest in disclosure is greater than the privacy interest of the individual in withholding.

Likewise, Exemption 7(C) provides protection for law enforcement information when the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." Exemption 7(C) similarly protects personal information of third parties. Examples of personal information generally protected from release are: an individual's personal home address, date of birth, social security number and personal identifying information as such release would constitute an unwarranted invasion of personal privacy.

The information that we are withholding consists solely of the above categories of information pertaining to the individual named in the records. The BIA-OJS has determined that the individual to whom the above listed information pertains have a substantial privacy interest in protecting that information. Additionally, the BIA-OJS has determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties and that, on balance; the public interest to be served by its disclosure does not outweigh the privacy interest of the individual in question.

Thus, we have determined that the release of the information we have withheld is law enforcement data which could reasonably be expected to constitute a clear unwarranted invasion of personal privacy, therefore, it may be withheld pursuant to Exemption 6 and Exemption 7(C).

Additionally, within this case file, we have identified several documents from other agencies pertaining to this investigation which we could not release. In accordance with the Department of Interior's FOIA regulations (43CFR 1.22(b)(2)), we are referring this letter to the respective departments for a direct response to you. If you wish to contact them directly concerning your request, the contact information is as follows:

Chief of Police Alejandro Benally
San Carlos Tribal Police Department
200 West Pinal Street
San Carlos, AZ 85550
Telephone: 928-475-2224

Complaint# 201106285

Office of the Medical Examiner
Forensic Science Center
2825 E. District Street
Tucson, AZ 85714
Telephone: 520-243-8600

ML# 11-00775

San Carlos Apache Gold Casino
Director Nadie Beauty
P.O. Box 1210
San Carlos, AZ 85550
Telephone: 928-475-7800

Surveillance Information

I have consulted with Shari Mauney, Attorney-Advisor with the Office of the Field Solicitor, Phoenix, Arizona, in reaching this decision for a partial release.

You may appeal this partial denial to the FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:


Freedom of Information Act Appeals Officer
Department of the Interior
Office of the Solicitor

1849 C Street, NW, MS 6556
Washington, DC 20240

You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including a copy of your original FOIA request and this letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked, both on the envelope and the face of the letter, with the legend, "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the bureau's response is in error.

This concludes our response within the BIA, Office of Justice Services. If you have any questions regarding any of the issues discussed in this letter, you may contact Cynthia Descheeny, FOIA Coordinator, at this office by phone (602) 379-6958, ext. 1819, by fax at (602) 379-6462, or by mail at the address above. Within the BIA, Office of Justice Services, we are committed to providing you, our customer, with the highest quality of service possible.

Sincerely,



Matthew Pryor
Special Agent In Charge
Office of Justice Services, District III

Enclosure

Cc: Laura Cloud, BIA FOIA Officer
Chief of Police, Police Department

Privacy Act Notice: Before you choose to contact us electronically, there are a few things you should know. The information you submit, including your electronic address, may be seen by various people. We will scan a copy of your request into our electronic FOIA administrative/image file. We will key the information that you provide to us into our electronic FOIA tracking file. We may share it with other individuals, both within and without the Department, involved in FOIA administration. You may be contacted by any of these individuals. In other limited circumstances, including requests from Congress or private individuals, we may be required by law to disclose some of the information you submit. Also, e-mail is not necessarily secure against interception. If your communication is very sensitive, or includes personal information like your bank account, charge card, or social security number you might want to send it by postal mail, instead.